

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

THOMAS ROGER WHITE, JR., and
CHRISTOPHER MILLS, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

SAMSUNG ELECTRONICS AMERICA,
INC. and SONY ELECTRONICS INC.,

And

John and Jane Does (1-Unlimited)

And

ABC Corporations (1-Unlimited),

Defendants.

Civil Action No. 17-01775 (MCA) (SCM)

Hon. Madeline Cox Arleo, U.S.D.J.

Hon. Steven C. Mannion, U.S.M.J.

Document electronically filed

**STIPULATION AND [PROPOSED]
ORDER REGARDING APPLICATION
TO FILE PROPOSED
SECOND AMENDED COMPLAINT**

Plaintiffs and Defendant Samsung Electronics America, Inc. (“Samsung”) and Defendant Sony Electronics Inc. (“Sony”) (collectively, “Defendants”) jointly file this Stipulation and proposed Order regarding Plaintiffs’ application to file a proposed Second Amended Complaint:

1. Whereas, Plaintiffs filed the original Complaint on March 16, 2017;
2. Whereas, Plaintiffs filed the First Amended Complaint on January 17, 2018;
3. Whereas, this Court issued a Letter Order and opinion dated September 26, 2018, granting Defendants’ Motion to Dismiss pursuant to Fed.R.Civ.P. 12(b)(6) and dismissing the First Amended Complaint, ECF No. 82;
4. Whereas, Counsel for Plaintiffs thereafter advised the Court of his intention to seek leave to file an amended complaint, i.e., a proposed Second Amended Complaint (“SAC”), now attached hereto as Exhibit A, to amend the allegations in the complaint, including adding Patricia Cauley as a named plaintiff;

5. Whereas, in accordance with Magistrate Judge Mannion's Text Order dated October 4, 2018, ECF No. 84, the parties conferred regarding Plaintiffs' application to file an amended complaint and now stipulate and agree as follows: Defendants consent to the filing of proposed SAC, pursuant to Federal Rule of Civil Procedure 15(a)(2), and Plaintiffs acknowledge and agree that Defendants are not thereby admitting the allegations of the proposed SAC and are not waiving any defenses to the claims asserted in the proposed SAC, including without limitation all defenses to the sufficiency of the pleading under Fed.R.Civ.P. 12(b);

6. Whereas, Plaintiffs further acknowledge and agree that Defendants are not waiving their rights to file a Motion to Dismiss the proposed SAC;

7. Whereas, Plaintiffs and Defendants further agree to and propose for acceptance by this Court the following schedule for the filing of the SAC and a briefing schedule for Defendants' Motion to Dismiss the SAC:

- (a) Plaintiffs shall file the proposed SAC by Monday, November 19, 2018;
- (b) Defendants shall file their Motion to Dismiss the Second Amended Complaint by Wednesday, December 19, 2018;
- (c) Plaintiffs shall file opposition to the Motion by Friday, January 25, 2019;
- (d) Defendants shall file any reply by Friday, February 15, 2019.

Accordingly, IT IS HEREBY STIPULATED that Plaintiffs may file the attached Second Amended Complaint by Monday, November 19, 2018. All defenses as to the sufficiency of the Second Amended Complaint are reserved to be addressed on motion pursuant to Federal Rule of Civil Procedure 12(b). Defendants will file any such motion to dismiss within 30 days of the filing of the Second Amended Complaint; Plaintiff White and Patricia Cauley will file any

opposition to such motion to dismiss within 37 days thereafter; and Defendants will file any reply within 21 days thereafter.

DATED: November 14, 2018

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**SAMSUNG ELECTRONICS AMERICA,
INC.**

IT IS SO ORDERED.

Dated: _____

Magistrate Judge Stephen Mannion
United States Magistrate Judge